

Senate File 344 - Enrolled

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SENATE FILE 344

AN ACT
RELATING TO ENFORCEMENT OF CERTAIN SOLID WASTE DISPOSAL
REQUIREMENTS AND PROVIDING CIVIL PENALTIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 455D.10A, subsection 5, Code 2007, is amended by striking the subsection.

Sec. 2. Section 455D.11, subsection 9, Code 2007, is amended by striking the subsection.

Sec. 3. Section 455D.11I, subsection 7, Code 2007, is amended to read as follows:

7. The department shall adopt rules ~~including imposition of civil penalties~~ necessary for the implementation and administration of this section.

Sec. 4. Section 455D.11I, subsection 8, Code 2007, is amended by striking the subsection.

Sec. 5. Section 455D.19, subsection 2, paragraph a, Code 2007, is amended to read as follows:

a. "Distributor" means a person who takes title to one or more packages or packaging components purchased for promotional purposes or resale. A person involved solely in delivering or storing packages or packaging components on behalf of third parties is not a distributor.

Sec. 6. Section 455D.19, subsection 3, Code 2007, is amended to read as follows:

3. A manufacturer or distributor shall not offer for sale or sell, or offer for promotional purposes a package or packaging component, in this state, which includes, in the package itself, or in any packaging component, inks, dyes, pigments, adhesives, stabilizers, or any other additives, any lead, cadmium, mercury, or hexavalent chromium which has been intentionally introduced as an element during manufacturing or distribution as opposed to the incidental presence of any of these elements and which exceed the concentration level established by the department. A distributor shall only be subject to the assessment of a civil penalty pursuant to section 455D.25, subsection 2, for the knowing violation of this section. Knowledge by the distributor of the violation shall be presumed beginning sixty days from the receipt of notification from the department by certified mail.

Sec. 7. Section 455D.19, subsection 8, Code 2007, is amended by striking the subsection.

Sec. 8. NEW SECTION. 455D.22 CIVIL PENALTY.
A person who violates section 455D.6, subsection 6, section 455D.11, 455D.11A, 455D.11B, 455D.11I, or 455D.19, or any rule, permit, or order issued pursuant thereto shall be subject to a civil penalty which shall be established, assessed, and collected in the same manner as provided in section 455B.109. Any civil penalty collected shall be deposited in the general fund of the state.

Sec. 9. NEW SECTION. 455D.23 VIOLATIONS.
The director may issue any order necessary to secure compliance with or prevent a violation of the provisions of this chapter or any rule adopted or permit or order issued pursuant to this chapter. The person to whom such compliance order is issued may cause to be commenced a contested case within the meaning of chapter 17A, by filing within thirty days a notice of appeal to the commission. On appeal, the commission may affirm, modify, or vacate the order of the director.

Sec. 10. NEW SECTION. 455D.24 JUDICIAL REVIEW.
Judicial review of any order or other action of the commission or director may be sought in accordance with the terms of chapter 17A. Notwithstanding the terms of chapter 17A, petitions for judicial review may be filed in the district court of the county in which the alleged offense was committed.

Sec. 11. NEW SECTION. 455D.25 CIVIL ACTIONS FOR COMPLIANCE == PENALTIES.
1. The attorney general, on request of the department,

3 4 shall institute any legal proceedings necessary to obtain
3 5 compliance with an order of the commission or the director,
3 6 including proceedings for a temporary injunction, or
3 7 prosecuting any person for a violation of an order of the
3 8 commission or the director or the provisions of this chapter
3 9 or any rules adopted or permit or order issued pursuant to
3 10 this chapter.
3 11 2. Any person who violates section 455D.10A, 455D.11,
3 12 455D.11A, 455D.11B, 455D.11I, or 455D.19, or any order or
3 13 permit issued or rule adopted pursuant to section 455D.6,
3 14 subsection 6, section 455D.10A, 455D.11, 455D.11A, 455D.11B,
3 15 455D.11I, or 455D.19, shall be subject to a civil penalty, not
3 16 to exceed ten thousand dollars for each day of such violation.
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3 21 JOHN P. KIBBIE
3 22 President of the Senate
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3 25 PATRICK J. MURPHY
3 26 Speaker of the House
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3 28 I hereby certify that this bill originated in the Senate and
3 29 is known as Senate File 344, Eighty=second General Assembly.
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3 32 _____
3 33 MICHAEL E. MARSHALL
3 34 Secretary of the Senate

3 35 Approved _____, 2007

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4 4 CHESTER J. CULVER
4 5 Governor